

EXECUTIVE SECRETARIAT  
ROUTING SLIP

LOGGED

TO:

|          |           | ACTION          | INFO | DATE | INITIAL |
|----------|-----------|-----------------|------|------|---------|
| 1        | DCI       |                 | X    |      |         |
| 2        | DDCI      |                 | X    |      |         |
| 3        | EXDIR     |                 | X    |      |         |
| 4        | D/ICS     |                 |      |      |         |
| 5        | DDI       |                 |      |      |         |
| 6        | DDA       |                 | X    |      |         |
| 7        | DDO       |                 |      |      |         |
| 8        | DDS&T     |                 |      |      |         |
| 9        | Chm/NIC   |                 |      |      |         |
| 10       | GC        |                 |      |      |         |
| 11       | IG        |                 |      |      |         |
| 12       | Compt     | X               |      |      |         |
| 13       | D/Pers    |                 |      |      |         |
| 14       | D/OLL     |                 |      |      |         |
| 15       | D/PAO     |                 |      |      |         |
| 16       | SA/IA     |                 |      |      |         |
| 17       | AO/DCI    |                 |      |      |         |
| 18       | C/IPD/OIS |                 |      |      |         |
| 19       | NIO/ECON  |                 | X    |      |         |
| 20       |           |                 |      |      |         |
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| 22       |           |                 |      |      |         |
| SUSPENSE |           | 1200, 17 Dec 84 |      |      |         |
|          |           | Date            |      |      |         |

Remarks

To 12: Please provide coordinated comments in memorandum for my signature to Craig Fuller.

Executive Secretary

14 Dec 84

Date

3637 (10-81)

STAT

THE WHITE HOUSE  
WASHINGTON

Executive Registry

LOGGED

84-10314

## CABINET AFFAIRS STAFFING MEMORANDUM

Date: December 14, 1984 Number: 244582CA Due By: 12 noon, Monday, December 17  
Subject: Proposed Presidential Memo re Regulatory Planning Process

| ALL CABINET MEMBERS | Action                              | FYI                      |                          | Action                   | FYI                      |
|---------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| Vice President      | <input checked="" type="checkbox"/> | <input type="checkbox"/> | CEA                      | <input type="checkbox"/> | <input type="checkbox"/> |
| State               | <input type="checkbox"/>            | <input type="checkbox"/> | CEQ                      | <input type="checkbox"/> | <input type="checkbox"/> |
| Treasury            | <input type="checkbox"/>            | <input type="checkbox"/> | OSTP                     | <input type="checkbox"/> | <input type="checkbox"/> |
| Defense             | <input type="checkbox"/>            | <input type="checkbox"/> |                          | <input type="checkbox"/> | <input type="checkbox"/> |
| Attorney General    | <input type="checkbox"/>            | <input type="checkbox"/> |                          | <input type="checkbox"/> | <input type="checkbox"/> |
| Interior            | <input type="checkbox"/>            | <input type="checkbox"/> |                          | <input type="checkbox"/> | <input type="checkbox"/> |
| Agriculture         | <input type="checkbox"/>            | <input type="checkbox"/> | Baker                    | <input type="checkbox"/> | <input type="checkbox"/> |
| Commerce            | <input type="checkbox"/>            | <input type="checkbox"/> | Deaver                   | <input type="checkbox"/> | <input type="checkbox"/> |
| Labor               | <input type="checkbox"/>            | <input type="checkbox"/> | Darman (For WH Staffing) | <input type="checkbox"/> | <input type="checkbox"/> |
| HHS                 | <input type="checkbox"/>            | <input type="checkbox"/> | McFarlane                | <input type="checkbox"/> | <input type="checkbox"/> |
| HUD                 | <input type="checkbox"/>            | <input type="checkbox"/> | Svahn                    | <input type="checkbox"/> | <input type="checkbox"/> |
| Transportation      | <input type="checkbox"/>            | <input type="checkbox"/> |                          | <input type="checkbox"/> | <input type="checkbox"/> |
| Energy              | <input type="checkbox"/>            | <input type="checkbox"/> |                          | <input type="checkbox"/> | <input type="checkbox"/> |
| Education           | <input type="checkbox"/>            | <input type="checkbox"/> |                          | <input type="checkbox"/> | <input type="checkbox"/> |
| Counsellor          | <input type="checkbox"/>            | <input type="checkbox"/> |                          | <input type="checkbox"/> | <input type="checkbox"/> |
| OMB                 | <input type="checkbox"/>            | <input type="checkbox"/> |                          | <input type="checkbox"/> | <input type="checkbox"/> |
| CIA                 | <input type="checkbox"/>            | <input type="checkbox"/> |                          | <input type="checkbox"/> | <input type="checkbox"/> |
| UN                  | <input type="checkbox"/>            | <input type="checkbox"/> |                          | <input type="checkbox"/> | <input type="checkbox"/> |
| USTR                | <input type="checkbox"/>            | <input type="checkbox"/> |                          | <input type="checkbox"/> | <input type="checkbox"/> |
| GSA                 | <input type="checkbox"/>            | <input type="checkbox"/> | Executive Secretary for: |                          |                          |
| EPA                 | <input type="checkbox"/>            | <input type="checkbox"/> | CCCT                     | <input type="checkbox"/> | <input type="checkbox"/> |
| NASA                | <input type="checkbox"/>            | <input type="checkbox"/> | CCEA                     | <input type="checkbox"/> | <input type="checkbox"/> |
| OPM                 | <input type="checkbox"/>            | <input type="checkbox"/> | CCFA                     | <input type="checkbox"/> | <input type="checkbox"/> |
| VA                  | <input type="checkbox"/>            | <input type="checkbox"/> | CCHR                     | <input type="checkbox"/> | <input type="checkbox"/> |
| SBA                 | <input type="checkbox"/>            | <input type="checkbox"/> | CCLP                     | <input type="checkbox"/> | <input type="checkbox"/> |
|                     |                                     |                          | CCMA                     | <input type="checkbox"/> | <input type="checkbox"/> |
|                     |                                     |                          | CCNRE                    | <input type="checkbox"/> | <input type="checkbox"/> |

## REMARKS:

The Regulatory Review process was discussed at a recent planning meeting of the Cabinet Council of Economic Affairs. Attached is the proposed Presidential Memorandum that was forwarded for the President's signature following the meeting.

Please provide any comments you may have by 12 noon, Monday, December 17.

Thanks

## RETURN TO:

☒ Craig L. Fuller

Assistant to the President  
for Cabinet Affairs

☐ Don Clarey

☐ Tom Gibson

☐ Larry Herbolzheimer

Associate Director

Office of Cabinet Affairs

THE WHITE HOUSE  
WASHINGTON

DRAFT

December 13, 1984

MEMORANDUM FOR THE PRESIDENT

FROM: THE CABINET COUNCIL ON ECONOMIC AFFAIRS  
SUBJECT: Regulatory Planning Process

Last year, the Cabinet Council on Economic Affairs undertook a number of major studies on selected issues. One of these concerned "Regulation and Market Intervention." It examined the Administration's regulatory reform efforts and raised the need for changes in the regulatory planning process.

The Council has devoted four sessions over the last year to a proposed new planning process. Members agreed that three fundamental changes were necessary:

- o The new process should provide more effective means of establishing priorities in the regulatory activities taking place across the Administration.
- o The new process should ensure that senior Administration officials have an opportunity to shape regulatory proposals at an early stage in the rulemaking process.
- o The new process should ensure that major regulatory proposals made by executive departments and agencies are consistent with Administration policy and with each other.

Current Procedures

At the present time, rulemaking agencies submit draft notices of proposed rulemaking and final rules to the Office of Management and Budget for review, before their publication in the Federal Register, under the procedure established in February 1981 by Executive Order 12291.

Experience has shown, however, that such review of proposed rules often comes too late to provide for adequate consideration by senior officials to ensure that it is consistent with Administration policy. Agency staffs often still frame regulatory issues and narrow policy options in their pre-rulemaking activities, long before senior agency officials are involved.

A major rulemaking proposal may have been preceded by several years of staff studies, "fact-finding" hearings, and

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increasingly firm commitments to congressional and constituency groups that can make it difficult, if not impossible as a practical matter, for the agency head to pursue a radically different approach or course of action.

Moreover, under current procedures, while a Unified Regulatory Agenda, outlining Federal agency plans for new regulations over the coming year, is compiled, it does not force the central question of establishing priorities. It serves more like a catalogue or directory than as a strategic document of what the Administration considers most important on its regulatory agenda.

#### New Regulatory Planning Process

The new regulatory planning process will enable the Administration to review pre-rulemaking regulatory activities in order to make sure that Administration policies are reflected at each step in the process. This will help agency heads to manage agency regulatory activities more effectively. At the same time, it will enable the President to hold agency heads more closely accountable and facilitate the implementation of Administration policy.

Under the new process, regulatory agencies will submit to the Office of Management and Budget, in January, a statement of the policies, goals, and objectives they intend to pursue during the coming year. They will also provide information about all significant regulatory activities — pre-rulemaking as well as rulemaking activities — underway or planned.

These draft policy statements and plans will be reviewed for consistency with Administration policy and the plans of other agencies. OMB will circulate a draft of the Administration's Regulatory Program for agency comment, review, and interagency consideration if necessary before the document is put in final form for publication.

Issues not resolved by OMB and an agency will be referred to an appropriate forum, and when necessary to you. Following this review, in April, the agencies' statements of regulatory policies and significant regulatory actions will be compiled and published as the Administration's Regulatory Program for the coming year.

Once the Administration's Regulatory Program for the year has been published, OMB will return for reconsideration any significant rule received under Executive Order 12291, if it was not included in the published program. These rules can

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be resubmitted for inclusion in the Administration's Regulatory Program for the following year. Exceptions will be made for statutory or judicial requirements and unanticipated emergency situations.

Recommendation: The Cabinet Council on Economic Affairs recommends establishing this new regulatory planning process and that you sign the attached memorandum for the Heads of Executive Departments and Agencies to begin implementing this new process.

  
Donald T. Regan  
Chairman Pro Tempore

THE WHITE HOUSE

WASHINGTON

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

SUBJECT: Development of Administration's Regulatory Program

With your help and active support, this Administration has substantially reduced the burden and intrusiveness of Federal regulatory programs. In the past three years, we have eliminated many needless rules, revised ill-conceived ones, and held the number of new rules to the minimum necessary. The policies and procedures of Executive Order No. 12291 have imposed long needed discipline on the rulemaking process. As a result, Federal paperwork and the size of the Federal Register have declined for four consecutive years--for the first time ever. Our accomplishments so far have been substantial, and we can take pride in them.

Much more can and should be done, however. Regulation has become one of the most important and costly activities of government, yet it is managed far less systematically than direct government spending. Several statutes and Executive Order No. 12291 establish procedures for agency rulemaking, but this is only the final stage of the regulatory process. Developing a government rule often involves years of studies, hearings, and intermediate decisions before even a proposed rule is issued for public comment. Frequently, senior agency officials are involved only after these earlier activities have greatly narrowed the options for final action and precluded effective Administration policy review.

I believe a coordinated process for developing an annual Administration regulatory program is needed to address these problems. Under this process, it will be the personal responsibility of the head of each agency to determine--at the beginning of the regulatory process, not at the end--whether a given regulatory venture is consistent with the goals of the Administration and whether agency resources should be committed to it. Each agency head will thus be accountable for the management of the regulatory process, to ensure that policy options are not narrowed prematurely and that each significant regulatory proposal will be considered in relation to others.

To do this, I am requesting each regulatory agency to draft its proposed regulatory policies for 1985, and to set forth a statement of priority regulatory activities, including pre-rulemaking actions, that constitute the agency's regulatory program for the year. This document should explain how each new

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activity will carry out the regulatory policies of this Administration, and specify the agency's plan for reviewing and revising existing regulatory programs to bring them into accord with Administration policies.

After approval by the head of the agency, the agency's draft regulatory program should be submitted in January for review by the Office of Management and Budget. This review should focus on consistency with general Administration policy, and with the draft regulatory programs submitted by other agencies. OMB will circulate a draft of the Administration's Regulatory Program for agency comment, review, and interagency consideration if necessary before the document is put in final form for publication. Issues may be raised for further review by a Cabinet Council or by me or by such other group as I may designate. This review will not interfere with the exercise of authority committed by statute to heads of agencies.

The final regulatory programs of all agencies will be published by OMB in April as the Administration's Regulatory Program. During the year, this document will be used as a basis for reviews of individual rules under Executive Order No. 12291. At the end of the year, it should be used to assess the agency's performance and to prepare the next year's program.

I am directing the Director of the Office of Management and Budget to implement this regulatory review process immediately and to establish the procedures under which these documents will be submitted to the Director and reviewed. The Director will prepare for my consideration the goals and priorities for all agencies in a manner similar to the identification of significant issues in the fiscal budgetary process.

I am convinced that this process will result in substantial improvements in Federal regulatory policy. It will help ensure that each major step in the process of rule development is consistent with Administration policy. It will enable agency heads to manage agency regulatory actions more effectively, at the same time that it enables the President to hold agency heads more closely accountable for implementing Administration policy.

While ambitious, this program will build on our earlier efforts that have proven successful--the Executive Order No. 12291 review process, the reviews of inherited rules by the Task Force on Regulatory Relief, and the annual "paperwork budget" process. I ask for your wholehearted support in seeing that this next stage in our regulatory reform program is equally successful.